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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

In re LinkedIn ERISA Litigation

Case No.: 5:20-CV-05704-EJD

Judge: Hon. Edward J. Davila

**MEMORANDUM OF POINTS AND
AUTHORITIES IN FURTHER
SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND AWARDS OF
ATTORNEYS' FEES, EXPENSES, AND
CASE CONTRIBUTION AWARDS**

Fairness Hearing: December 13, 2023
9:00 a.m.

1 Plaintiffs, Douglas G. Bailey, Jason J. Hayes, and Marianne Robinson (collectively,
2 “Plaintiffs”), on behalf of the proposed Settlement Class and the LinkedIn Corporation 401(k)
3 Profit Sharing Plan and Trust (the “Plan”), respectfully submit this Memorandum of Law in
4 Further Support of their Unopposed Motion for Final Approval of Class Action Settlement and
5 Award of Attorneys’ Fees, Expenses, and Case Contribution Awards (ECF No. 148, the
6 “Motion”), pursuant to the Court’s Preliminary Approval Order (ECF No. 147, “Preliminary
7 Approval Order”), and to update the Court on the positive reception of the Settlement Class to the
8 Settlement since the execution of the Notice plan.¹ For all of the reasons addressed in detail in
9 Plaintiffs’ moving papers and because the Settlement Class has reacted extremely positively to
10 the Settlement—indeed, *no objections* have been filed after notice was distributed to over 17,000
11 participants and beneficiaries in the Plan—and the Independent Fiduciary retained on behalf of
12 the Plan has issued a report approving the Settlement, the Court should enter an order granting
13 final approval of the Settlement.

14 The proposed Settlement would resolve this action in its entirety and establish a common
15 fund of \$6,750,000 for the benefit of the Settlement Class. The Settlement—reached after
16 comprehensive discovery and several dispositive and procedural motions—is the product of
17 thoroughly contested litigation between highly-experienced counsel and extensive arm’s-length
18 negotiations, achieved with the assistance of Robert A. Meyer, Esq. of JAMS. The Parties
19 reached the Settlement after a full-day mediation, follow-up exchanges of information, and
20 additional negotiations under the auspices of the Mediator, as well as expert analysis. In addition,
21 the Settlement and all related applications have been reviewed and approved by the Independent
22 Fiduciary retained on behalf of the Plan, the report of which is attached to the accompanying
23 Supplemental Declaration of Laurie Rubinow and will be posted to the Settlement Website. *See*
24 Supplemental Rubinow Decl., Ex. 1. The Settlement represents a very favorable result for the
25 Class in light of the substantial risks and challenges that Plaintiffs and the Class would face in

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27 ¹Capitalized terms not otherwise defined herein shall have the same meaning as in the Settlement
28 Agreement (ECF No. 139-2).

1 establishing liability and damages at trial, and defeating Defendants’ affirmative defenses and
2 arguments in response, as well as the costs and delays of continued litigation, including trial and
3 inevitable appeals, which would occur absent the Settlement.

4 The Settlement should be finally approved, not only because of the Ninth Circuit’s “strong
5 judicial policy that favors settlements, particularly where complex class action litigation is
6 concerned,” *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008), but because the
7 Settlement is extremely favorable and warrants approval under the factors articulated in *Staton v.*
8 *Boeing Co.*, 327 F.3d 938, 959 (9th Cir. 2003).² Of particular note at this juncture is the positive
9 reaction of the Settlement Class and approval of the Independent Fiduciary retained on behalf of
10 the Plan, each of which strongly supports final approval of the Settlement. To date, more than
11 17,000 members of the Settlement Class have received direct notice of the Settlement, claims
12 procedures, and objection guidelines. *See* Supplemental Declaration of Cornelia Vieira
13 Concerning the Mailing of the Settlement Notice and Former Participant Claim Form
14 (“Supplemental Vieira Declaration”), at ¶ 3. The Settlement Administrator has also maintained
15 a website and toll-free phone number to address inquiries about the status of the case, deadlines,
16 and claims filing process, and to make available important documents, including the Notice and
17 Former Participant Claim Form. *See id.* ¶ 6. Since the entry of the Preliminary Approval Order,
18 the Settlement Administrator has promptly responded to each telephone inquiry and continues to
19 maintain and update the website. *See id.* In addition, Class Counsel have responded to any
20 inquiries from members of the Settlement Class seeking more information about the claims and
21 Settlement. *See* Supplemental Rubinow Declaration, at ¶ 3.

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23 ²The *Boeing* factors are: (1) the strength of plaintiffs’ case; (2) the risk, expense, complexity, and
24 likely duration of further litigation; (3) the risk of maintaining class action status throughout the
25 trial; (4) the amount offered in settlement; (5) the extent of discovery completed, and the stage of
26 the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental
27 participant; and (8) the reaction of the class members to the proposed settlement. *See* 327 F.3d at
28 959.

Members of the Settlement Class have responded extremely positively after receiving notice of the Settlement. The deadline for objections was October 17, 2023. *See* ECF No. 147, at ¶ 11. No objections to the fairness, reasonableness, adequacy of the Settlement, any term of the Settlement Agreement, Plan of Allocation, proposed payment of costs for administering the Settlement, or requests for attorneys' fees and expenses, or case contribution awards for Plaintiffs were filed on the docket or submitted to Class Counsel or the Settlement Administrator. *See* Supplemental Vieira Decl., at ¶ 8; see also Supp. Rubinow Decl., at ¶ 4. Courts recognize that the reaction of the class is one of the most important *Boeing* factors to consider at the final approval stage. *See* 4 NEWBERG ON CLASS ACTIONS § 13:54 (5th ed.). A small number of objections can be viewed as indicative of the adequacy of the settlement. *See In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D. Cal. 2008). Thus, the Absence of objections decisively supports final approval. Moreover, the Settlement Administrator has complied with the Preliminary Approval Order and exhausted all reasonable means to notify members of the Settlement Class of the Settlement, including obtaining corrected addresses and remailing Notice and Former Participant Claim Forms where possible. *See* Supplemental Vieira Decl., at ¶¶ 3–7. To date, neither the Settlement Administrator nor Class Counsel has received a single objection, despite providing notice of the Settlement and objection and exclusion procedures to tens of thousands of Settlement Class members. *See id.*, at ¶ 8; see also Rubinow Decl., at ¶ 4. This strongly indicates the fairness, reasonableness, and adequacy of the Settlement and the Plan of Allocation. In addition to the lack of objections to the Settlement, there have been no objections to the request for attorneys' fees and expenses or case contribution awards for Plaintiffs. *See id.* Not only are the amounts requested reasonable as discussed in detail in Plaintiffs' moving papers, *see* ECF No. 148, but the lack of any objections to these applications further supports approval. Further, the Independent Fiduciary separately evaluated the Settlement Agreement and determined that it is reasonable, providing the Court with an independent basis to authorize the Settlement as recommended. *See* Supplemental Rubinow Decl., at Ex. 5.

Final approval is warranted under all of the circumstances. Accordingly, Plaintiffs respectfully request that the Court: (1) grant final approval of the Settlement and enter the

1 [Proposed] Final Approval Order and Judgment filed on March 3, 2023 (ECF No. 139-2,
2 Settlement Agreement, Ex. D); (2) award attorneys' fees of one-third of the Settlement Fund
3 (\$2,250,000) as well as payment of necessary and reasonable litigation expenses of \$119,386.02
4 Class Counsel; and (3) award \$12,500 each to Plaintiffs as case contribution awards for their
5 service as representatives of the Plan and the Settlement Class.

6 Dated: November 9, 2023

Respectfully submitted,

7 /s/ James C. Shah

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